

VII. JUDGMENTS

Civil L.R. 54.1 Bill of Costs

- (a) The party in whose favor a judgment for costs is awarded or allowed by law and who claims the party's costs must, after the judgment has been entered, serve on the attorney for the adverse parties and file with the Clerk of Court the party's bill of costs. The Clerk of Court's office has forms available for this process or the party may use the party's own forms. Such service and filing must be made not later than 14 days after entry of the judgment. If a timely motion for a new trial or amendment of judgment has been made pursuant to Fed.R.Civ.P. 59, time for filing the bill of costs commences to run from the entry of the order granting or denying such motion. The parties, by filing a stipulation with the Clerk of Court's office, may delay the filing of the bill of costs and taxing until after decision by the Court of Appeals or Supreme Court when an appeal is taken. Absent such a filed stipulation or a court order, the appeal must not delay the taxing of costs.
- (b) Unless otherwise determined by the Clerk of Court, the following procedure will apply. The party against whom costs are sought to be taxed has 10 days to file a written objection, accompanied by a brief memorandum. The party seeking to tax costs has 5 days to respond and the objecting party has 5 days thereafter to reply. Costs will be taxed by the Clerk of Court on the basis of the written memoranda.

Civil L.R. 54.2 Items Taxable as Costs

The following is the practice of the Court concerning items of costs not otherwise allowed or prohibited by statute.

- (a) Fees of the Court Reporter for All of or Any Part of the Transcript Necessarily Obtained for Use in the Case. The costs of the original transcript, if paid by the taxing party, and the cost of the taxing party's copy (not to exceed the fee of the court reporter set by General L.R. 80.3) are taxable. The costs of a transcript of matters prior or subsequent to trial when necessary for appeal, or when requested by the Court or prepared pursuant to stipulation of the parties and necessarily obtained for use in the case are also taxable. In the case of a daily transcript, the parties must follow Civil L.R. 54.2(e).
- (b) Deposition Costs. The court reporter's charge for the original of a deposition, if paid by the taxing party, and the taxing party's copy are taxable if the deposition was reasonably necessary for use in the case, whether or not it was used at trial. Reasonable expenses of the reporter, the presiding notary or other official and postage costs for sending the original deposition to the Clerk of Court for filing are taxable. Counsel's fees and expenses in attending and taking the deposition are not taxable. Per diem attendance fees for a witness at a deposition are taxable as per 28 U.S.C. § 1821. A reasonable fee for a necessary interpreter at the taking of a deposition is taxable.
- (c) Witness Fees, Mileage, and Subsistence. The rate for witness fees, mileage, and subsistence are fixed by statute. (See 28 U.S.C. § 1821 and Civil L.R. 54.2(e).) Such fees are taxable

whether or not the witness attends voluntarily or is under subpoena, provided the witness testified at the trial and received a witness fee. No party shall receive witness fees for testifying in his or her own behalf. Fees for expert witnesses are not taxable in a greater amount than that statutorily allowable in the case of ordinary witnesses, except in exceptional circumstances by order of the Court.

- (d) Costs of copies of papers reasonably necessary for use in the case are taxable. (See 28 U.S.C. § 1920(4).) Papers include, but are not limited to, maps, charts, photographs, summaries, computations and statistical comparisons.
- (e) Costs of demonstrative evidence created for use in the case, daily transcripts, witness fees for mileage for trial witnesses coming from outside of the district in excess of 100 miles from the place of trial, and expert witness fees in excess of the statutory allowance, must never be taxed unless the party requesting taxation obtained Court approval on motion for such costs brought prior to the time the costs were incurred, and in the case of demonstrative evidence, prior to the time such evidence is used at trial.

Civil L.R. 54.3 Review of Costs

A party may move for review of the Clerk of Court's decision taxing costs pursuant to Fed.R.Civ.P. 54(d) within 5 days from taxation. The motion, supporting papers and scheduling must conform to Civil L.R. 7.1.

Civil L.R. 56.1 Summary Judgment Motions in Pro Se Litigation

- (a) If a party is proceeding pro se in civil litigation, and the opposing party files a motion for summary judgment, counsel for the movant must comply with the following procedure:
 - (1) The motion must include a short and plain statement that any factual assertion in the movant's affidavit(s) or other admissible documentary evidence will be accepted by the Court as being true unless the party unrepresented by counsel submits the party's own affidavit(s) or other admissible documentary evidence contradicting the factual assertion.
 - (2) In addition to the foregoing statement, the text to Fed.R.Civ.P. 56(e) and (f), Civil L.R. 56.1 and Civil L.R. 7.1 must be part of the motion.
- (b) This procedure also applies to motions to dismiss brought pursuant to Fed.R.Civ.P. 12(b)(6) or motions for judgment on the pleadings pursuant to Fed.R.Civ.P. 12(c) where matters outside the pleading are presented to the Court.

Civil L.R. 56.2 Additional Summary Judgment Motion Procedures

Motions for summary judgment must comply with Fed.R.Civ.P. 56 and Civil L.R. 7.1. In addition, with the exception of Social Security reviews and cases in which a party appears pro se, the following requirements must be met:

- (a) Motion. The moving papers must include either (1) a stipulation of facts between the parties, or (2) the movant's proposed findings of fact supported by specific citations to evidentiary materials in the record (e.g., pleadings, affidavits, depositions, interrogatory answers, or admissions), or (3) a combination of (1) and (2).
 - (1) The movant must present only the factual propositions upon which there is no genuine issue of material fact and which entitle the movant to judgment as a matter of law, including those going to jurisdiction and venue, to the identity of the parties, and to the background of the dispute.
 - (2) Factual propositions must be set out in numbered paragraphs, with the contents of each paragraph limited as far as practicable to a single factual proposition.
- (b) Response. Any materials in opposition to a motion filed under this rule must be filed within 30 days from service of the motion and must include:
 - (1) A specific response to the movant's proposed findings of fact, clearly delineating only those findings to which it is asserted that a genuine issue of material fact exists. The response must refer to the contested finding by paragraph number and must include specific citations to evidentiary materials in the record which support the claim that a dispute exists.
 - (2) A party opposing a motion may present additional factual propositions deemed to be relevant to the motion, in accordance with the procedures set out in Subparagraph (a)(2) of this rule. These propositions may include additional allegedly undisputed material facts and additional material facts which are disputed and which preclude summary judgment.
- (c) Reply. The movant may serve and file a reply brief within 15 days of service of the response brief. The movant may also respond to the opposing party's proposed findings of fact in accordance with the provisions of subparagraph (b)(1) of this rule.
- (d) All factual assertions made in any brief must be supported by both specific citations to evidentiary materials in the record and the corresponding stipulated fact or proposed finding of fact. Parties must file and serve the evidentiary documents cited in their briefs and proposed findings of fact.
- (e) In deciding a motion for summary judgment, the Court must conclude that there is no genuine material issue as to any proposed finding of fact to which no response is set out.

Civil L.R. 62.1 Supersedeas Bonds

- (a) A supersedeas bond, where the judgment is for a sum of money only, must be in the amount of the judgment plus 15 percent to cover interest and such damages for delay as may be awarded plus \$500.00 to cover costs. If eligible under Civil L.R. 77.1(b), the supersedeas bond may be approved by the Clerk of Court.
- (b) When the stay may be effected solely by the giving of the supersedeas bond, but the judgment or order is not solely for a sum of money, the Court may on notice grant a stay on such terms as to security and otherwise as it may deem proper.
- (c) Upon approval, a supersedeas bond must be filed with the Clerk of Court and a copy with a notice of filing shall be promptly served on the parties affected thereby. If the appellee objects to the form of the bond or to the sufficiency of the surety, notice of a hearing before the Court on such objections must be given.

Civil L.R. 67.1 Required Security

In addition to any security required by law, the Court, at any time upon good cause shown, may order original or additional security for costs to be given by any party.

Civil L.R. 67.2 Forms of Security

Security for costs must consist of a cash deposit or a bond, with surety, in the sum of \$250.00 unless otherwise ordered, conditioned to secure the payment of costs which the posting party may ultimately be ordered to pay to any party. A corporation authorized by the Secretary of the Treasury of the United States must be accepted as surety on bonds. An individual resident of the district who owns real or personal property within the district, the unencumbered value of which is equal to the amount of the bond, may be accepted by the Court as surety upon a bond. No member of the bar or officer of this Court must be accepted as surety upon any bond or similar undertaking. Any party may raise objections to the form, amount or sufficiency of security for costs.

Civil L.R. 67.3 Deposit of Funds

- (a) Upon stipulation of the parties or motion to the Court, the Court may order that the monies paid into Court in any pending or adjudicated case be paid to a trustee other than the Clerk of Court who is nominated by the parties and/or designated by the Court for investment in the following types of securities, interest thereon to inure to the party or parties entitled to said monies. The funds must be invested in the name of the trustee “under order of the United States District Court for the Eastern District of Wisconsin, Case No. _____.”
 - (1) United States Treasury bills.

- (2) Accounts, not to exceed the insurance coverage limits in banks or savings and loan associations insured pursuant to the Federal Deposit Insurance Corporation Act, 12 U.S.C. §§ 1811-1831 or the Federal Savings and Loan Insurance Corporation Act, 12 U.S.C. §§ 1724-1730.
 - (3) Certificates of deposit in banks that, upon issuance of the certificate, pledge collateral for the deposit with the Federal Reserve Bank pursuant to 12 C.F.R. § 9.10.
- (b) In all other cases all monies paid into Court must be deposited either in a checking account in the United States Treasury or in an interest-bearing account in a designated local depository in accordance with Civil L.R. 67.4.

Civil L.R. 67.4 Withdrawal of Funds

The court order must contain a prohibition against withdrawal, except upon order of the Court. A certified copy of the order must be placed on file with the financial institution involved.